

Indian Academy of Forensic Medicine

Governing Council (2010 – 2013)

Registration No. 349, Panaji, Goa



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No. IAFM/AK/2013/3

4th Jan. 2013

Hon'ble Justice JS Verma

Chairman Commission for suggesting amending laws to provide speedier justice and enhanced punishment in sexual assault cases

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We all, as a member of society, are deeply concerned about one of the most heinous incident of crime committed in moving bus on streets of New Delhi which evoked national sentiments in last month. Subsequently whole nation decided not to celebrate this New Year. This "Gang-rape" Case definitely tarnished the image of our country at global level. Subsequently, the proactive media is also highlighting the serious lacunae and loopholes in our legal & investigation system existent at the level of judiciary, police, medical etc. We have come to know through public notice dated 25 Dec.2012 that a commission under your Lordship has been constituted to suggest various measures in this context albeit giving very less time (last date 5th Jan).

Editor:

Dr. MukeshYadav

Jt. Editor:

Dr. Akash Deep Aggarwal

Your Lordship will agree that the investigation of an alleged rape case involves multispecialty and requires multipronged approach. Key roles are played by

-The Victim, Friends, relatives and witnesses

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-Police Officers, Public Prosecutors, Defense Counsels, Judiciary

- Media

-Forensic Medical Officers & Forensic Scientists

In all of the above multidisciplinary/ multi-professional exercise there are several drawbacks and lack of coordination which results into abnormal delay and miscarriage of justice. Generally much emphasis is laid on the role of police and the legal issues as highlighted by media; but here we want to highlight the pivotal role which can be played by the Forensic Medicine professionals to improve the situation.

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Hon'ble Lordship will concur with us that the present medicolegal investigation system is extremely pathetic in our country especially in such type of cases which has definite bearing on the outcome of case. Time and again it has been emphasized that, in majority of the acquitted cases, the accused took benefit of 'lack of evidences in general and lack of medical evidences in particular'. Most humbly on behalf of forensic medical fraternity, I would like to put our views and suggestions in this context which are essentially required for improving the whole system by ensuring quick trial and conviction in different types of sexual violence against women.

It is a known fact that almost 75-80 % of medicolegal work at present is being performed by MBBS doctors in our country who are not well trained in forensic aspects. The evidentiary materials that are collected and examined from the victim and accused are more often done by these. Most of the times such cases are taken to Government hospitals, where the doctor does the task, is either a Emergency Medical Officer/Casualty Medical Officer or a specialist from Gynecology & Obstetrics. In northern part of country it is to be done mandatorily by Lady Medical Officers. It invariably results into very poor discharge of medicolegal work because of obvious reasons.

1. It is suggested that examination of alleged victim as well as accused of any sexual offence should be handled by **trained Forensic Medicine personnel ONLY**. For effective implementation of it, initially the post of **District Medicolegal Expert** needs be created all over country. Afterwards the number should be increased to 2 at every district and one at every tehsil/taluk. The objective here is not to glorify the forensic doctor but a concern to apply the right expertise at the right time to the needy. This would meet the larger interest of the justice and the interest of the State.

In this context, it is pertinent to mention before your Honor that 2 years back, Medical Council of India (MCI) suddenly reduced the teaching staff in Forensic Medicine & Toxicology in all medical colleges which further decreased the

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quality of imparting forensic medical education to MBBS students. One can very well imagine the situation when these untrained MBBS doctors are disposing of 75-80 % of whole medicolegal work. IAFM has abhorred this move and is continuously pressing upon MCI and various concerned ministries (Health and Home) as well to first restore and then upgrade the number of faculty in forensic medicine. Not only that several curricular reforms in this context were suggested laying much emphasis on the subject of Forensic medicine & Toxicology during the MBBS education itself. It is being learnt that although MCI has approved it but Health Ministry has still not given the nod to notify it. **Necessary directions to MCI and concerned ministries may be given from Hon'ble Commission** which will definitely go a long way in improving the forensic medicine teaching and subsequently medicolegal functioning all over country.

2. To utilize the best services of existent expertise, the Central Government with MCI should make it compulsory on the part of all private medical colleges to perform all kind of medicolegal work and instruct the State Government to allow it in those colleges since most of the states are not allowing the private medical colleges to undertake various types of medicolegal work including autopsies.

3. Development of Clinical Forensic Medicine Unit/Forensic Casualty at every medical college and hospital which should be well equipped with various infrastructures, separate examining room, trained forensic nursing personnel and supportive staff. Availability of Pre-packaged **Sexual Assault Forensic Examination (SAFE) Kit** to be ensured at Emergency/Casualty of every hospital.

4. Development of **Medicolegal Institutes/ Forensic & Legal Medicine Centers** at every state where deployment of forensic medicine specialists as well as **Forensic Odontologists/ Toxicologists/ Scientists** and supportive staff with state of the art advanced laboratory infrastructure for giving objective,

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prompt and accurate reports (Delay is generally attributed to receipt of Reports from Forensic Science Laboratories).

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5. **Rape Crisis Management Centers/cells** needs be developed under these medicolegal institutes where **Forensic Psychologists** as well as **Forensic Psychiatrist** should also be part of it for providing holistic treatment and counseling services.

Editor:

Dr. Mukesh Yadav

6. When the laws are amended in case of alleged offences against human body, the views of Forensic Medicine professionals must be taken for technical feasibility as they are in best position to help and guide owing to their day-to-day appearance as expert witnesses in Courts of Law.

Jt. Editor:

Dr. Akash Deep Aggarwal

7. Sensitizing various personnel specially police officers through exclusive intensive training on these issues by Forensic Medicine Experts in required depth will be of immense help. A Humane approach and inculcating ethical values in all the professionals involved in this complex issue, conduction of regular refreshers courses for all concerned by real experts will further improve overall scenario.

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The scientific evaluation of the crucial evidentiary materials as a part and parcel of medicolegal work which will lend vital potency to the discharge of JUSTICE; may thus be achieved in reality.

We sincerely believe that the Hon'ble Justice shall surely take cognizance of various points and few submissions made on behalf of whole forensic medicine fraternity which will go a long way in improving the medicolegal functioning thereby strengthening the delivery of speedier justice based on scientific evidences.

With warm regards

(Dr. Adarsh Kumar)

Hony. Gen Sec, IAFM

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